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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/853,446	05/11/2001	Dale E. Gulick	2000.038600/TT3759	6304
23720	7590	09/13/2004	EXAMINER	
WILLIAMS, MORGAN & AMERSON, P.C. 10333 RICHMOND, SUITE 1100 HOUSTON, TX 77042			VO, TIM T	
			ART UNIT	PAPER NUMBER

2112

DATE MAILED: 09/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/853,446

Applicant(s)

GULICK, DALE E.

Examiner

Tim T. Vo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Part III DETAILED ACTION

Notice to Applicant(s)

This application has been examined. Claims 12-21 are pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 12-17 are rejected under 35 U.S.C. § 102(b) as being anticipated by Wiedemer patent number 5,155,680.

As for claims 12, 15-16 and 19, Wiedemer teaches a method of operating computer system in System Management Mode (SMM), the computer system including a processor coupled to a memory, to a security hardware, and to a first device (see figure 1 and column 3 lines 46-51, CPU connects to a memory in the personal computer 10 via input/output interface, security module 16 is connecting to the computer 10 via a bus and a disk drive 114 is a first device), the method comprising:

unlocking security hardware (see figure 1, security hardware 16 and column 2 lines 38-54, wherein the security hardware 16 contains source code (encipher and decipher) to control accessing application program from diskette 14 (see column 5 lines 30-46);

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accessing a first device (see figure 1, diskette 14 and column lines 30-46, wherein the user access the application program from the diskette 14);

locking the security hardware (see figure 1, security hardware 16 and column 2 lines 38-54, wherein the security hardware 16 contains source code (encipher and decipher) to control accessing application program from diskette 14 (see column 5 lines 30-46);

calling an SMM exit routine (see figure 2, wherein figure 2 discloses a flow chart illustration of the operation of the security system with stop for exiting the operation).

As for claims 13-14, 17-18 and 20-21, Wiedemer teaches checking for a lock status of the security hardware (see figure 2, steps 26-40 and column 11 line 15 to column 12 line 2, wherein step 26 reads the information from the PROM 18, the information includes internal code to determine whether the application program is encipher. Further, column 11 lines 22-29, the information read from PROM 18 then utilized to generate a latch code).

Response to Arguments

2. In response to the applicant's arguments that Wiedemer does not teach System Management Mode (SMM) is a mode of operation in the computer system that was implemented to conserve power as described on page 13, 11: 13-17 of the current invention specification. The claim's language does not indicate "SMM is a mode of operation in the computer system that was implemented to conserve power" but rather claimed a method of operating a computer system in SMM or a computer system configured to operate in SMM. These preambles do not further describes what the

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SMM is and they do not indicate the SMM is a mode of operation in the computer system that was implemented to conserve power as applicant argues. Therefore, this argument is moot. MPEP 2111 instructed the claims must be given their broadest reasonable interpretation consistent with the support description, thus Wiedemer teaches a computer system operating computer software to manage security and billing system which is equivalent to System Management Mode (SMM). Further, MPEP 2111 instructed a claim must be interpreted in light of the specification **without** reading limitations into the claim.

3. In response to the applicant's arguments that Wiedemer fails to teach or suggest calling an SMM exit routine. As cited in the previous office action, the flow chart of figure 2 manages the computer software security and billing system discloses "STOP" for exiting the management the computer software security and billing routine. This step is equivalent to what is claimed.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tim T. Vo whose telephone number is 703-308-5862. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Rinehart can be reached on 703-305-4815. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



09/10/04

Tim T. Vo
Primary Examiner
Art Unit 2112